

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:23-CT-3025-BO

TRAVIS M. JOYNER,

Plaintiff,

v.

OFFICER HOLLOMAN, OFFICER
LOCKLEAR, and MARK BARNILL,

Defendants.

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ORDER


Travis M. Joyner (“plaintiff”), a state inmate, filed the instant civil rights action *pro se* pursuant to 42 U.S.C. § 1983. The matter now is before the court on plaintiff’s motion to compel (DE 48), motion to disregard his motion to compel (DE 49), motion to voluntarily dismiss defendant Brandon Locklear from this action pursuant to Federal Rule of Civil Procedure 41(a) (DE 50), and motion to voluntarily dismiss the entire action pursuant to Rule 41(a) (DE 53).

The court begins with plaintiff’s motion to voluntarily dismiss this action. An action may be dismissed voluntarily by plaintiff without order of the court by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1). Otherwise an action shall not be dismissed on the plaintiff’s request except upon an order of the court. See Fed. R. Civ. P. 41(a)(2). At this point in the proceedings, defendants have answered the complaint. Accordingly, the complaint may only be voluntarily dismissed pursuant to Rule 41(a)(2), which permits voluntary dismissal “on terms the court considers proper.” A

plaintiff's motion under Rule 41(a)(2) should not be denied absent substantial prejudice to the defendants. S.A. Andes v. Versant Corp., 788 F.2d 1033, 1036 (4th Cir. 1986).

In this case, the court finds that voluntary dismissal of this action is appropriate, and that the dismissal of this case would not substantially prejudice defendants. Thus, plaintiff's motion for voluntary dismissal pursuant to Rule 41(a)(2) (DE 53) is GRANTED, and this action is DISMISSED without prejudice. Plaintiff's remaining motions (DE 48, 49, 50) are DENIED as MOOT. The Clerk of Court is DIRECTED to close this case.

SO ORDERED, this the 5 day of January, 2024.


TERRENCE W. BOYLE
United States District Judge